

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHAEL M.,

Plaintiff,

-v-

5:23-CV-752

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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APPEARANCES:

OF COUNSEL:

HILLER COMERFORD  
INJURY & DISABILITY LAW  
Attorneys for Plaintiff  
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Amherst, NY 14226

JUSTIN M. GOLDSTEIN, ESQ.

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ADMINISTRATION  
Attorneys for Defendant  
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Baltimore, MD 21235

SHANNON FISHEL, ESQ.  
Special Ass't U.S. Attorney

DAVID N. HURD  
United States District Judge

**ORDER ON REPORT & RECOMMENDATION**

On June 20, 2023, plaintiff Michael M.<sup>1</sup> (“plaintiff”) filed this action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner”) denying his application for Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”) under the Social Security Act (the “Act”). Dkt. No. 1. Plaintiff did not consent to the direct exercise of Magistrate Judge jurisdiction. *See* Dkt. No. 5. So the case was referred to U.S. Magistrate Judge Daniel J. Stewart for the issuance of a Report & Recommendation (“R&R”). *See id.*

Thereafter, the Commissioner filed a certified copy of the Administrative Record, Dkt. No. 8, and the parties briefed the matter in accordance with General Order 18, which provides that a district court appeal taken from the Commissioner’s administrative denial of benefits is treated as if the parties have filed cross-motions for judgment on the pleadings, Dkt. Nos. 11, 15, 16.

On August 15, 2024, Judge Stewart advised by R&R that plaintiff’s motion should be denied, the Commissioner’s motion be granted, the Commissioner’s final decision be affirmed, and that plaintiff’s complaint be dismissed. Dkt.

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<sup>1</sup> In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only the first name and last initial of plaintiff will be mentioned in this opinion.

No. 17. Neither party has lodged objections, and the time period in which to do so has expired. *See id.*

Upon review for clear error, Judge Stewart's R&R is accepted and will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

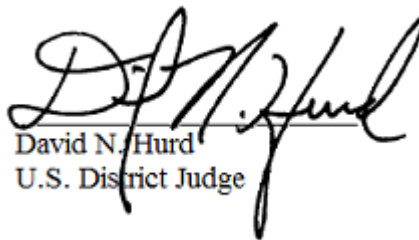
ORDERED that

1. The Report & Recommendation (Dkt. No. 17) is ACCEPTED;
2. Plaintiff's motion is DENIED;
3. The Commissioner's motion is GRANTED;
4. The Commissioner's final decision is AFFIRMED; and
5. Plaintiff's complaint is DISMISSED.

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: September 6, 2024  
Utica, New York.

  
David N. Hurd  
U.S. District Judge